

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MANUEL GUADIAN,

Plaintiff,

V.

PROGRESSIVE DEBT RELIEF LLC
a Florida Limited Liability Company

Defendant.

[illegible]

EP-23-CV-0235-FM

FILED
2023 AUG 29 PM 1:43
FEDERAL U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY gja
DEPUTY

PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT

Plaintiff respectfully moves this Court for leave to amend his Complaint. The amendment does not involve different subject matter or raise significant new factual issues.

Under the Federal Rules of Civil Procedure, under Rule 15, “the court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). “The federal policy of liberality in permitting amendments to pleadings, as embodied in [Federal Rule 15], is self-evident.” *Davenport v. Ralph N. Peters & Co.*, 386 F.2d 199, 204 (4th Cir. 1967). [T]he general rule is that leave to amend a complaint under Federal Rule of Civil Procedure 15(a) should be freely given, see *Foman v. Davis*, 371 U.S. 178, 182 (1962), unless “the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would have been futile,” *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006) (internal quotation marks omitted).” *Steinburg v. Chesterfield County Planning Com’n*, 527 F.3d 377, 390 (4th Cir. 2008). “It is this Circuit’s policy to liberally allow amendment in keeping with the spirit of [Fed.

R. Civ. P.] 15(a).” *Galustian v. Peter*, 591 F.3d 724, 729 (4th Cir. 2010) (citing *Coral v. Gonse*, 330 F.2d 997, 998 (4th Cir. 1964)). “Motions to amend are typically granted in the absence of an improper motive, such as undue delay, bad faith, or repeated failure to cure a deficiency by amendments previously allowed.” *Harless v. CSX Hotels, Inc.*, 389 F.3d 444, 447 (4th Cir. 2004) (citing *Ward Elec. Serv., Inc. v. First Commercial Bank*, 819 F.2d 496, 497 (4th Cir. 1987)). Here, there is no improper motive, such as undue delay or bad faith.

The proposed First Amended Complaint does not prejudice the Defendant as it arises from the same incidents and common facts and law. In light of the settled Supreme Court and Fourth Circuit precedent, liberally applying the dictate of Fed. R. Civ. P. 15(a)(2) that “[t]he court should freely give leave when justice so requires,” Plaintiff respectfully requests that this Honorable Court enter an order granting Plaintiff leave to file an amended complaint and accepting and filing the proposed First Amended Complaint accompanying this Motion.

August 28, 2023,

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Manuel Guadian', with a long horizontal flourish extending to the right.

Manuel Guadian
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